

LEGISLATIVE BILL 238

Approved by the Governor March 1, 1989

Introduced by Hall, 7; Conway, 17

AN ACT relating to the Nebraska Wage Payment and Collection Act; to amend sections 48-1229 and 48-1232, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to provide an additional penalty for willful nonpayment of wages; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-1229, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1229. As used in sections 48-1228 to 48-1232 the Nebraska Wage Payment and Collection Act, unless the context otherwise requires:

(1) Employer shall mean any individual, partnership, association, joint-stock company, trust, corporation, political subdivision, or personal representative of the estate of a deceased individual, or the receiver, trustee, or successor thereof, within or without the state, employing any person within the state as an employee, except that employer shall not be construed to include the state;

(2) Employee shall mean any individual permitted to work by an employer pursuant to an employment relationship or who has contracted to sell the goods of an employer and to be compensated by commission. Services performed by an individual for an employer shall be deemed to be employment, unless it is shown that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. This subdivision is not intended to be a codification of the common law and shall be considered complete as written; and

(3) Wages shall mean compensation for labor or

services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis. Wages shall include commissions on all orders delivered and all orders on file with the employer at the time of termination of employment less any orders returned or canceled at the time suit is filed.

Sec. 2. That section 48-1232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1232. If an employee shall establish ~~establishes~~ a claim and ~~secure~~ secures judgment on such claim under section 48-1231, an amount equal to the judgment shall be recovered from the employer. If the nonpayment of wages is found to be willful, an amount equal to two times the amount of unpaid wages shall be recovered from the employer. Such amount, if ordered by the court, and shall be placed in a fund to be distributed to the common schools of this state.

Sec. 3. That original sections 48-1229 and 48-1232, Reissue Revised Statutes of Nebraska, 1943, are repealed.